659 not extend beyond the frontiers of the country and, vice versa, no foreign church may have jurisdictional powers over any denomination in Romania. Moreover, any material support granted and accepted from outside must be communicated to the Romanian Government.

793 The clergymen, the heads of the religious organizations and their officers must be Romanian citizens or they must apply for naturalization. A foreign citizen may be admitted only by special authorization and specifically if otherwise the existence and the functioning of a religious community would be imperilled.

[678] As in the case of the Orthodox Church, the heads of all religious denominations and their clergymen are triable for cannon and political offenses by the High Court of Cassation and Justice (not by ordinary courts). However, the disciplinary cases in church matters shall be tried by their own Synods.

The organizations of the historical churches (infra) are legal entities.

● 794 The religious denominations freely administer their assets as well as establish and manage as many charitable and educational institutions as they wish or need. The same is true of schools for preparation of the clergy. These, however, must communicate to the Ministry of Religious Affairs concerning their curricula.

[871] Each church has the right to give religious instruction to their youth of the given denominations in either public or private schools, as well as to men on active service.

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794 Besides their own revenues, the Churches were entitled to ask for contribution from their parishioners to cover the expenses of maintenance. In case of need the State may supply the amounts required for specified needs; in this case it reserved the right to verify that they are lawfully used.

[798] Articles 43 and 44 provided that since the Constitution guaranteed to all citizens the freedom of religion and conscience every individual has the right to belong to any religious denomination he desires, as well as to change his religion after he reaches the age of 18 years.

659 Up to the end of World War II the Law No. 54 was amended several times.

[793] The first amendment was caused by the fact that some sects carried on a propaganda which was considered to affect the public order. Thus by Decree No. 2752 of August 3, 1929 the Government introduced more severe penalties for clergymen who induced their flock to disobey the laws of the country.

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659 Moreover, the decree allowed for the same reasons to withdraw from a religious association the authorization to function. The same fact induced the Government to make further a distinction among the religious associations which were not enumerated as historical in the Law No. 54 of 1928.

The Order (Decizune) No. 114, 119 of 1933 of the Ministr of Religious Affairs made a distinction between the permitted religious associations and those forbidden on the grounds of

795 the granting of broader rights and a corresponding status.
[659] After long negotiations between the Vatican and the Romanian Government an agreement was reached on May 10, 1927, known as the Concordat, and it was ratified by the Parliament on May 29, 1929.

659 The most important provisions of this Concordat[1] which refer to the relations between the Romanian State and the Catholic Church are the following:

The Catholic Church in Romania is recognized to have the status of a legal entity in conformity with the general laws of the country. This status is granted to all Catholic organizations, including the orders and congregations which are legally established both in accordance with the canon law and the laws of Romania.

● 794 659 The right of property in all assets of any kind is recognized and guaranteed to the Church by the State in conformity with the Constitution and the laws of the country. The property and other assets for religious, educational, charitable and similar purposes for which they were originally established must be used according to their initial destination, and the proceeds must be used exclusively within Romanian territory. The property may be alienated or hypothecated only in accordance with the rules established by the laws of Romania and the canon law.

In conformity with the provisions of the Law on legal entities, the Government maintains the right of supervision over the material resources of the Catholic Church and the use made of them.

[1] [ratified by Parliament, May 29, 1929 --Analyst]

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659 The Catholic Church is authorized to form, in Romania, a "Sacred Diocesan Fund" composed of the bonds belonging to the Church, its congregations and religious organizations. This fund shall be administered by the Diocesan Bishops' Council and it is destined to cover the expenses required by religious and educational activities as well as for salaries to be paid to the Catholic clergy. In case the fund should become insufficient for these expenses, the Romanian Government assumes the obligation of allocating the necessary subsidies from budgetary appropriations.

Besides the "Sacred Fund", there are two other funds to which the status of a legal entity has been granted as well. They are:

a) the General Catholic Fund for religion; and

b) the General Catholic Fund for education.

The administration of properties belonging to schools, educational institutions, etc., is conferred upon the Catholic diocesan authorities.

The Catholic Church has the right to open as many schools or charitable institutions of any kind as is desired. Since they are entitled to issue publicly recognized diplomas, these schools had to be supervised by the Ministry of Education.

000 The religious instruction of Catholics in all kind of

794 The religious instruction of Catholics in all kinds of
659 schools, including government schools, is conducted according
811 to directives issued by the Catholic Bishop. The directives are to be communicated also to the Ministry of Education.

The Bishop has the right to request the dismissal of teachers of Catholic religion in public or private schools, even where such teachers are appointed and paid by the Government, if the Bishop considered the teacher unqualified for this task.

[814] Finally, the Catholic Church has the right to establish all kinds of Divinity Schools for preparing the Catholic clergy. The curriculum of those schools is established by the competent Catholic Church authorities.

793 The Catholic bishops and their assistants, appointed
659 by the Vatican, must be Romanian citizens and are obliged to take an oath of allegiance to the King, the Constitution and the laws of the country. Those who are not citizens are allowed to apply for citizenship within a reasonable period of time.

The appointment of the clergy is within the exclusive jurisdiction of the Church authorities. However, an appointment must be communicated, in advance, to the Ministry of Religious Affairs.

Article 27, the last article of the Concordat, states that "The two contracting parties reserve the right to denounce this Concordat after notice has been served six months in advance."

659 An additional Protocol was signed on May 30, 1932 (Official Gazette No. 180 of August 3, 1932 and ratified by Decree-Law No. 659 (Official Gazette No. 52 of March 2, 1940) pertaining to the

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642 Article 27 of this fundamental law reads as follows:

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794 Article 27

Freedom of conscience and freedom of religious worship shall be guaranteed by the State.

Religious creeds shall be free to organize themselves and may freely function provided their ritual and practice are not contrary to the Constitution, public security and morality.

No religious denomination, congregation or community may open or maintain institutions for general education, but may only run special schools for training personnel necessary to the cult under State control.

The Romanian Orthodox Church is autocephalous and unitary in its organization.

The way of organizing and functioning of the religious creeds will be established by law." (Italics supplied.)

Consequently, three main principles are to be retained:

a) The freedom of religious worship is guaranteed by the State;

b) The organizing and functioning of religious creeds is, with specified exceptions, free;

c) The various creeds are entitled to run special school for training their clergy.

However, these constitutional provisions do not reflect the true situation which will be brought to light only after the analysis of laws later enacted and analyzed in subsequent chapters.

2. The Regime of the Religious Denominations

A. General Survey

659 After World War II. the original law for the regulation of the religious creeds (No. 54 of 1928) suffered only one major

another denominational jurisdiction. Disregarding the ecclesiastical rules of the denomination, the decree provides that the assets of the parish are transferred to the denomination chosen by the parishioners who leave the parish in proportion to their number as compared with those remaining in the parish. In case 75 percent leave a creed, its entire assets, including the church building, are transferred to that adopted by the parishioners. The implication of this rule is discussed infra under 5. 659 425

The religious denominations may maintain with other countries only such relations as are of a religious nature and they must be carried after approval of the Ministry of Religious Affairs and through the medium of the Ministry for Foreign Affairs. These provisions were intended to interrupt direct contact between the Roman Catholic Church in Romania and the Holy See, required by the dogma and organization of the Roman Catholic Church. 659 648 794

Any direct communication by Catholic prelates in Romania with the Holy See could be brought, in view of these provisions, under the provisions of the Decree of August 12, 1950, on state security which threatens with the death penalty:

a) "Treason to the country, rendering service to the enemy or causing prejudice to the power of the state;

b) Procurement and the transmission of state secrets to a foreign or enemy power;. . ."

Unfortunately, there were several instances in which expulsion or conviction was imposed upon the prelates and minister

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After World War II. Russia became interested in this Russian minority in Romania and its organization and helped it to become recognized by the Romanian Government, although not all of the Lipovan communities were willing by now to take such a step under the Soviet tutelage. The recognition was done by Law No. 728 of 1946 (Official Gazette No. 212 of September 13, 1946).

The status of legal entity was granted to the hierarchical organizations of the Christians of the Old Rite, including their monasteries.

Yet, the law provides that the Romanian State does not in contrast to the statutory provisions of the Law No. 54 of 1928 grant any kind of subsidies to this denomination, either for maintaining its organization and institutions or for paying its clergy.

It must be borne in mind that under the present setup the government, by taking upon itself the financial support of the churches, makes thereby the churches dependent upon it. Therefore, the abovementioned provision of the Law No. 728 may be considered a privilege of the Lipovan Church and a token of its independence from the government.

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Besides a complete hierarchical independence, this church is enabled to establish and direct by itself parish schools for the young believers with teachers appointed by the Parish Assemblies.

These schools are neither controlled in any way by

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the Ministries for Education and for Religious Affairs nor are they obliged in the least to send the curricula for approval (Article 73).

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Consequently, the Christian Church of the Old Rite is not under the control of the Ministry for Religious Affairs with reference to its organization and cult as other denominations are.

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Nor are its assets and financial status checked upon by the government authorities as are the assets of other denominations. Finally, it is permitted to establish and manage denominational schools independent of any kind of supervision exercised by the Department of Education. No other denomination has such a right.

It may be assumed that the Soviets have taken a special interest in this denomination and therefore its status-as any other matter of interest for the Soviets-is not subject to Romanian law.

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made for the Jews, the Orthodox Church dealt with other confessions in an irenic manner.

Rumania profited greatly if temporarily from its sponsorship of the Allied cause during World War I. Territories were assigned to it which had traditionally belonged to Bulgaria, Hungary, and Russia, presenting the government with a number of problems with which it had not previously been concerned. Transylvania, taken from Hungary, had a population divided almost equally between Roman Catholics and Protestants. The Russian Orthodox Church was predominant in Bessarabia, once deeded to the Czar by the West. The Rumanians dealt with the situation in a manner both intelligent and conciliatory. After the favored status of the Greek Orthodox Church had been defined, laws regulating the Confessions were passed during April, 1928. They carefully safeguarded the rights of the State and specifically forbade clergymen to embark on seas of foreign policy of their own charting, but acknowledged the right of the Churches to give religious instruction in public and private schools, and to conduct charitable enterprises. The government also signed a Concordat with the Holy See in 1927, with which the Vatican had no reason to be dissatisfied.

The Concordat conceded to the Catholic Church in all its branches, regular and secular, a large measure of legal protection. Stipulating that ecclesiastical properties must be used for the benefit of Rumanian citizens, and that the income therefrom was subject to audit by the government, it authorized the Church to create a "Sacred Diocesan Fund" to be administered by the Hierarchy. It also promised to add to the Fund if this proved to be inadequate to meet the expenses of necessity incurred by religious foundations. The Catholic clergy were asked to take an oath of allegiance to the King, to the Constitution, and to the laws of the nation. The government agreed not

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659 to intervene to secure the appointment of clergymen, but re-
648 quested that it be informed in each instance. These laws were
•794 modified under the rule of the Iron Front, in order to make
793 possible the persecution of the Jews. Christian communions appear, however, not to have been affected.

659 When a pro-Communist government was formed in Ru-
177 mania, the situation changed immediately and radically. The
671 laws adopted in 1928 were repealed by a decree of August 4, 1948. As usual in Soviet-inspired constitutions, freedom of conscience, of religion, and of worship was assured. Freedom was conceded to all creeds to organize and conduct their own ecclesiastical endeavors so long as they did nothing to jeopardize "public security and public order." The last proviso was, as always, the Trojan horse by means of which the conquerors would enter the citadel. For what were public security and order? The government reserved the right to determine; and in this case the "government" was and could only be the local soviet under which a poor cleric was to live and move and have his being. As a matter of fact, the system under which the Rumanian Communist Party functioned was simplicity itself. The list of electors registered in 1946 was kept up to date by striking off the names of all who had in some manner or other manifested hostility to the "people." The possessor of a name thus purged might retain the right to worship wherever he pleased, but was of course deprived of any opportunity to draw a salary from the State or to hold a position of public trust.

671 Indeed, the law went much further. Article 25 provided that
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659 the Ministry of Religious Affairs shall suspend any decision, instruction, or directive, as well as any order having an ecclesiastical character, whether administrative, cultural, educational, or caritative, or pertaining to endowments, if it is not in keeping with the status of the denomination in the act by which it has been established, or is inimical to public security, public order or morals. Pastoral and circular letters